

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARGARITA LOPEZ SANCHEZ,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

No. 2:23-cv-01011-MCE-AC

MEMORANDUM AND ORDER

Plaintiff Margarita Lopez Sanchez ("Plaintiff") initiated this action against the California Department of Corrections and Rehabilitation ("CDCR"), California State Prison, Sacramento ("CSP-SAC"), and a number of individual CDCR employees (collectively, "Defendants") seeking to recover for injuries sustained when her son was killed while incarcerated. Presently before the Court is Defendants' Motion to Dismiss ECF No. 12. That Motion is GRANTED.¹

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¹ Because oral argument would not have been of material assistance, the Court ordered this matter submitted on the briefs. E.D. Local Rule 230(g).

ANALYSIS

On a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure (“Rule”) 12(b)(6), all allegations of material fact must be accepted as true and construed in the light most favorable to the nonmoving party. Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 337–38 (9th Cir. 1996). Rule 8(a)(2) “requires only ‘a short and plain statement of the claim showing that the pleader is entitled to relief’ in order to ‘give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)). A complaint attacked by a Rule 12(b)(6) motion to dismiss does not require detailed factual allegations. However, “a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Id.* (internal citations and quotations omitted). A court is not required to accept as true a “legal conclusion couched as a factual allegation.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Twombly, 550 U.S. at 555). “Factual allegations must be enough to raise a right to relief above the speculative level.” Twombly, 550 U.S. at 555 (citing 5 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1216 (3d ed. 2004) (stating that the pleading must contain something more than “a statement of facts that merely creates a suspicion [of] a legally cognizable right of action”)).

Furthermore, “Rule 8(a)(2) . . . requires a showing, rather than a blanket assertion, of entitlement to relief.” Twombly, 550 U.S. at 555 n.3 (internal citations and quotations omitted). Thus, “[w]ithout some factual allegation in the complaint, it is hard to see how a claimant could satisfy the requirement of providing not only ‘fair notice’ of the nature of the claim, but also ‘grounds’ on which the claim rests.” *Id.* (citing Wright & Miller, *supra*, at 94, 95). A pleading must contain “only enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570. If the “plaintiffs . . . have not nudged their claims across the line from conceivable to plausible, their complaint must be dismissed.”

1 Id. However, “a well-pleaded complaint may proceed even if it strikes a savvy judge that
 2 actual proof of those facts is improbable, and ‘that a recovery is very remote and
 3 unlikely.’” Id. at 556 (quoting Scheuer v. Rhodes, 416 U.S. 232, 236 (1974)).

4 A court granting a motion to dismiss a complaint must then decide whether to
 5 grant leave to amend. Leave to amend should be “freely given” where there is no
 6 “undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice
 7 to the opposing party by virtue of allowance of the amendment, [or] futility of [the]
 8 amendment” Foman v. Davis, 371 U.S. 178, 182 (1962); Eminence Capital, LLC v.
 9 Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (listing the Foman factors as those to
 10 be considered when deciding whether to grant leave to amend). Not all of these factors
 11 merit equal weight. Rather, “the consideration of prejudice to the opposing party . . .
 12 carries the greatest weight.” Id. (citing DCD Programs, Ltd. v. Leighton, 833 F.2d 183,
 13 185 (9th Cir. 1987)). Dismissal without leave to amend is proper only if it is clear that
 14 “the complaint could not be saved by any amendment.” Intri-Plex Techs., Inc. v. Crest
 15 Group, Inc., 499 F.3d 1048, 1056 (9th Cir. 2007) (citing In re Daou Sys., Inc., 411 F.3d
 16 1006, 1013 (9th Cir. 2005); Ascon Props., Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th
 17 Cir. 1989) (“Leave need not be granted where the amendment of the complaint . . .
 18 constitutes an exercise in futility”)).

19 Defendants first move to dismiss all of Plaintiff’s claims against the CDCR and
 20 CSP-SAC as barred by the state’s Eleventh Amendment Immunity. Plaintiff concedes
 21 that dismissal of these claims is proper. The CDCR and CSP-SAC are thus DISMISSED
 22 without leave to amend.


23 Defendants next move to dismiss each of Plaintiff’s federal and state claims
 24 against the individual Defendants for failure to state a claim. Defendants’ argument is
 25 well taken. The Complaint includes only conclusory allegations regarding any of the
 26 individual Defendants and does not identify what personal role, if any, they played in the
 27 alleged deprivation of Plaintiff’s rights. Accordingly, these claims are DISMISSED with
 28 leave to amend.

CONCLUSION

Defendants' Motion to Dismiss (ECF No. 12) is GRANTED. Defendants CDCR and CSP-SAC are DISMISSED without leave to amend. Plaintiff's remaining claims are DISMISSED with leave to amend. Not later than twenty (20) days following the date this Memorandum and Order is electronically filed, Plaintiff may, but is not required to, file an amended complaint. If no amended complaint is timely filed, this action will be deemed dismissed with prejudice upon no further notice to the parties.

IT IS SO ORDERED.

Dated: April 23, 2024


MORRISON C. ENGLAND, JR.
SENIOR UNITED STATES DISTRICT JUDGE